



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 19 2014

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Edward A. Cohen  
Thompson Coburn LLP  
One US Bank Plaza  
St. Louis, Missouri 63101

Re: Administrative Order EPA-5-14-113(a)-IL-06 for Alter Recycling Company LLC

Dear Mr. Cohen

Enclosed is an executed original of the Administrative Consent Order for the above-referenced case. If you have any questions about the Order, please contact me at (312) 886-6769.

Sincerely,

A handwritten signature in black ink, reading "Sarah Marshall", is written below the word "Sincerely,".

Sarah Marshall, Chief  
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Eric Jones, IEPA  
Louise Gross, C-14J  
Gregory Gehrig, AE-17J  
Eleanor Kane, AE-17J

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>EPA-5-14-113(a)-IL-06</b>
	)	
<b>Alter Recycling Company LLC<sup>1</sup></b>	)	<b>Proceeding Under Sections</b>
<b>Bartonville, Illinois</b>	)	<b>113(a)(3) and 114(a)(1)</b>
	)	<b>of the Clean Air Act,</b>
_____	)	<b>42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)</b>

**Administrative Consent Order**

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5 (EPA), is entering into this Administrative Consent Order (Order) with Alter Recycling Company LLC (ARC), 7000 S.W. Adams St., Bartonville, Illinois, under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

**I. Statutory and Regulatory Background**

2. Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an order requiring compliance with Subchapter VI of the Act to any person who has violated or is violating any requirement of Subchapter VI. The Administrator of EPA has delegated her order authority to the Regional Administrator of EPA, Region 5 pursuant to EPA Headquarters Delegation 7-6-A. The Regional Administrator of EPA, Region 5, has delegated her order authority to the Director of the Air and Radiation Division, pursuant to EPA Region 5 Delegation 7-6-A.

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<sup>1</sup> Though the Finding of Violation was issued to Alter Trading Corporation, the parties hereto agree that the proper entity for this matter is Alter Recycling Company LLC.

3. The Administrator of EPA may require any person who owns or operates an emission source to make reports and provide information required by the Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator of EPA has delegated her information gathering authority to the Regional Administrator of EPA, Region 5 pursuant to EPA Headquarters Delegation 7-8. The Regional Administrator of EPA, Region 5, has delegated her information gathering authority to the Director of the Air and Radiation Division pursuant to EPA Region 5 Delegation 7-8.

4. Subchapter VI of the Act, 42 U.S.C. § 7671 *et seq.*, provides for the protection of stratospheric ozone. Section 608(b) of the Act, 42 U.S.C. § 7671g(b), provides EPA with the authority to regulate the safe disposal of class I and II substances. Class I and II substances include refrigerants containing chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). EPA promulgated such regulations covering the safe disposal of CFCs and HCFCs from small appliances and motor vehicle air conditioners at 58 Fed. Reg. 28660 (May 14, 1993). These regulations for protection of the stratospheric ozone, recycling and emissions reduction are found in 40 C.F.R. Part 82, Subpart F.

5. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances and motor vehicle air conditioners (MVACs) must either recover the refrigerant in accordance with specific procedures or verify with signed statements that the refrigerant was properly recovered prior to receipt of the small appliance or MVAC. See 40 C.F.R. § 82.156(f). If verification statements are used then the scrap recycler must notify the suppliers of the

small appliance or MVAC of the need to properly recover the refrigerant. See 40 C.F.R. § 82.156(f)(3). The scrap recycler must keep verification statements on-site for a minimum of three years. See 40 C.F.R. § 82.166(i) and (m).

6. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define "person" to include any individual or legal entity. See 40 C.F.R. § 82.152.

7. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction define a "small appliance" as any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of a class I or class II substance used as a refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners and packaged terminal air heat pumps), dehumidifiers, under the counter ice makers, vending machines, and drinking water coolers. See 40 C.F.R. § 82.152.

8. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define motor vehicle air conditioners (MVACs) as mechanical vapor compression refrigeration equipment used to cool the driver's or passenger's compartment of any motor vehicle. See 40 C.F.R. §§ 82.32 and 82.152.

## **II. Findings**

9. ARC owns and operates a scrap metal recycling facility at 7000 S.W. Adams St., Bartonville, Illinois (the Facility).

10. ARC is a limited liability company organized and doing business in Illinois.

11. ARC is a “person,” as defined by 40 C.F.R. § 82.152.

12. On October 12, 2012, EPA inspected the Facility to assess ARC’s compliance with the CAA. During this inspection, ARC explained to the EPA inspectors the process used for accepting or rejecting refrigerant-containing small appliances and MVACs that are brought to the facility. ARC provided copies of its form entitled “Frequent Supplier of Refrigerant Certification, which ARC used for persons or entities with whom ARC did not have a long-standing business relationship. This form did not require ARC’s suppliers to: 1) verify that the refrigerant has been previously evacuated; 2) identify the name and address of the person who removed the refrigerant; and 3) provide the date the refrigerant was removed. Thus, this form did not comply with the requirements of 40 C.F.R. § 82.156(f) for small appliances and MVACs received from suppliers with whom no long-standing business relationship could be established.

13. ARC is a person who takes the final step in the disposal process of small appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

14. On May 9, 2013, EPA issued ARC<sup>2</sup> a Finding of Violation (FOV) alleging that the practices found during the inspection and noted in paragraph 12 constituted a violation of 40 C.F.R. § 82.156.

15. On June 27, 2013, ARC conferred with EPA concerning the alleged violations.

### **III. Compliance Program**

16. ARC must comply with 40 C.F.R. Part 82, Subpart F. Additionally, for any small appliance or MVAC that it receives at the Facility, ARC must take the actions

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<sup>2</sup> See footnote 1.

and maintain compliance as specified in paragraphs 17 through 29, below, for two years after the effective date of this Order. ARC may also choose to not accept small appliances and/or MVACs during this time period.

17. ARC must not accept small appliances or MVACs with cut or dismantled refrigerant lines if, in good faith, it knows or has reason to know that the refrigerant has been deliberately vented, and, therefore, has not been properly recovered in accordance with 40 C.F.R. § 82.156(g) and (h).

18. ARC must not accept small appliances or MVACs having refrigerant lines that appear to be cut, dismantled or punctured (or otherwise indicating the refrigerants are not remaining) unless its supplier can certify, using the verification statement included as Attachment 1 to this Order, that all refrigerant that had not leaked previously has been properly recovered. For suppliers with whom ARC has had a long-standing business relationship, this requirement may be satisfied by ARC entering into the contract included as Attachment 2 to this Order. MVACs which have damage to refrigerant lines as a result of a collision shall not be deemed as having cut, dismantled or punctured refrigerant lines and may be accepted in accordance with Paragraph 21, below.

19. ARC may only accept small appliances with intact refrigerant lines provided it uses refrigerant recovery equipment as described in paragraphs 24-25, below, to remove any remaining refrigerant.

20. ARC may accept MVACs with intact refrigerant lines (1) if it has recovery equipment, or (2) if each intact MVAC is tested to verify that no remaining refrigerants are present. If no pressure remains in the system, the verification statement included as Attachment 1 to this Order shall be completed indicating that refrigerants leaked due to

age or condition as determined by pressure test. If pressure remains in the system, then ARC must either (1) reject the unit until such time the supplier can provide a completed verification statement, or (2) use refrigerant recovery equipment as described in paragraphs 24-25, below, to remove any remaining refrigerant.

21. ARC must notify its suppliers in writing that it will not accept small appliances or MVACs with cut or dismantled refrigerant lines, unless the suppliers can certify that the refrigerant was properly recovered prior to cutting or dismantling the refrigerant lines using the verification statement included as Attachment 1 to this Order or the contract included as Attachment 2 to this Order.

22. If ARC chooses to use refrigerant recovery equipment, ARC must notify its suppliers in writing that it will provide refrigerant recovery services at no additional cost.

23. ARC may satisfy the applicable notice requirements of paragraphs 21 and 22 with a warning sign consistent with 40 C.F.R. § 82.156(f)(3) that is prominently displayed at its weigh station during the period of time that this Order is in effect.

24. If ARC chooses to recover refrigerant, ARC must use compliant refrigerant recovery equipment to recover refrigerant from small appliances and/or MVACs, or contract the services of a trained individual to recover refrigerant from small appliances and MVACs. ARC will ensure that the individual recovering refrigerant is properly trained.

25. If ARC chooses to use recover refrigerant recovery equipment, ARC must use the refrigerant recovery logs included as Attachment 3 and Attachment 4 to this

Order. ARC must retain copies of receipts for all refrigerant it collects and sends to any other companies for reclamation.

26. ARC must also document the small appliances and MVACs it rejects, the date the appliance was rejected, and the reason for rejecting the item(s).

27. Within six months after the effective date of this Order and at one year after the effective date of this Order, ARC must submit to EPA proof of its compliance with the applicable notice requirements of paragraphs 21 and 22, above, and if refrigerant recovery equipment is acquired, the manufacturer, model, year of manufacture, and serial number of the recovery units acquired. If ARC contracts with a third party individual for refrigerant removal, ARC must provide to EPA the service records of the third-party individual, including the date of service and number of units serviced.

28. Within six months after the effective date of this Order and at one year after the effective date of this Order, ARC must submit to EPA copies of the following: all signed verification statements, all signed contracts, all refrigerant recovery logs, all refrigerant reclamation records and all rejection logs required by paragraph 26, above.

29. ARC must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
EPA, Region 5  
77 West Jackson  
Chicago, Illinois 60604

#### **IV. General Provisions**

30. ARC agrees to the terms of this Order but neither admits nor denies the Findings contained in Section II of this Order.

31. ARC waives all remedies, claims for relief and otherwise available rights

to judicial or administrative review that ARC may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b) of the Act.

32. This Order does not affect ARC's responsibility to comply with other federal, state, and local laws.

33. This Order does not restrict EPA's authority to enforce any requirement of the Act or its implementing regulations.

34. Failure to comply with this Order may subject ARC to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

35. ARC may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If ARC fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

36. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response(s) to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

37. The terms of this Order are binding on ARC, its assignees, and successors. ARC must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA that it has given the notice.

38. EPA may use any information submitted under this Order in an administrative, civil, judicial, or criminal action.

39. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that ARC has complied with all terms of the Order throughout its duration. Thereafter, ARC shall continue to comply with 40 C.F.R. Part 82, Subpart F.

40. Each person signing this Order certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

41. Each party agrees to pay its own costs and attorneys' fees in this action.

**Alter Recycling Company LLC**

9/16/14  
Date

Don H. Martin  
Don H. Martin  
LLC Manager  
Alter Recycling Company LLC

**United States Environmental Protection Agency**

9/19/14  
Date

George T. Czerniak  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency  
Region 5

**CERTIFICATE OF MAILING**

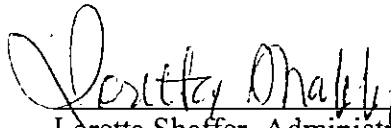
I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA-5-14-113(a)-IL-06, by certified mail, return receipt requested, to:

Edward A. Cohen  
Thompson Coburn LLP  
One US Bank Plaza  
St. Louis, Missouri 63101

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-14-113(a)-IL-06, by first-class mail to:

Eric Jones, Manager  
Bureau of Air, Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
P.O. Box 19506  
Springfield, Illinois 62794

On the 23 day of September 2014.



Loretta Shaffer, Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT  
NUMBER:

7009 1680 0000 7674 2359